GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Allegations of acquisition of assets disproportionate to the known sources of his legal income against Sri Poludasu Vemana, Town Planning Building Overseer, Greater Visakhapatnam Municipal Corporation, Visakhapatnam – Permission accorded for prosecuting the accused officer in a court of law under P.C.Act, 1988 – Charge sheet filed – Accused Officer convicted by the Judgement dated:11.06.2018 of Hon'ble Court of Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore in C.C.No.11/2009 – Imposition of punishment of withholding of pension and gratuity in full permanently against Sri Poludasu Vemana, Town Planning Building Overseer (Retd.) – Orders - Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (VIG.I) DEPARTMENT

G.O.MS.No. 274 **Dated: 13-08-2018**
Read the following:-

1. From the Inspector of Police, Anti Corruption Bureau, Nellore Range, A.P.Police Department Message, dated 27.10.2007.
2. Proceedings of the Commissioner, GVMC, Visakhapatnam, in Rc.No.17661/07/CP/G1, dated: 21.11.2007.
3. From the Director of Town & Country Planning, A.P., Hyderabad, letter Roc.No.11177/2007/M3-2, dated 04.12.2007.
4. G.O.Ms.No.117, M.A. & U.D.(Vig.I) Department, dated 01.02.2008.
5. From the Director General, Anti Corruption Bureau, A.P., Hyderabad, letter C.No.213/RCA-NNL/2007-S8, dt: 17.04.2009.
6. G.O.Ms.No.401, M.A. & U.D. (Vig.I) Dept., dated:22.06.2009.
7. Govt. Memo. No.22851/Vig.I(1)/2007-12, dated: 22.06.2009.
8. From the Director of Town & Country Planning, A.P., Hyderabad, Charge Memo.No.11177/2007/M3, dated 03.07.2009.
9. From the Hon'ble Court of Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore Judgment dated: 11.06.2018 in C.C.No.11/2009.

* * *

O R D E R:

Whereas, it has been brought to the notice of the Government by the Inspector of Police, Anti Corruption Bureau, Nellore Range vide reference 1st read above that a Disproportionate Assets case was registered by the ACB authorities against the Accused Officer Sri. Poludasu Vemana, the then Town Planning Building Overseer, GVMC, Visakhapatnam, as he had acquired assets disproportionate to the known sources of his legal income. The Accused Officer was arrested on 27.10.2007.

2. In the reference 2nd read above, the Commissioner, GVMC, Visakhapatnam has issued orders, placing the Accused Officer Sri. Poludasu Vemana, the then TPBO, GVMC, Visakhapatnam under deemed suspension from the date of commencement of his detention. The Director of Town & Country Planning, A.P., Hyderabad vide reference 3rd read above, ratified the action of the Commissioner, GVMC, Visakhapatnam in placing the Accused Officer under suspension.

3. In the G.O.4th read above, orders were issued, authorizing the Investigating Officer of Anti Corruption Bureau of the case for filing an application in the Court of Hon'ble Special Judge for SPE & ACB Cases, Nellore for attachment of the properties worth Rs.39,39,100/- under Section 3 of the Criminal Law (Amendment) Ordinance, 1944.

4. In the reference 5th read above, the Director General, Anti Corruption Bureau, A.P., Hyderabad in his final report dated: 17.04.2009 has recommended for prosecution of the Accused Officer Sri. Poludasu Vemana, the then TPBO, GVMC, Visakhapatnam in a court of law for the offences under the Prevention of Corruption Act, 1988.

(P.T.O.)

5. In the G.O.6th read above, orders were issued, according sanction for prosecuting the accused officer Sri Poludasu Vemana, the then TPBO, GVMC in a court of law for the offences under the Prevention of Corruption Act, 1988.

6. Basing on the recommendations of the Director General, Anti Corruption Bureau, A.P., Hyderabad and the instructions issued by the Government vide reference 7th read above, the Director of Town & Country Planning, A.P., Hyderabad had initiated departmental action against Sri Poludasu Vemana, the then TPBO by issuing Articles of Charges against him for violation of A.P.Civil Services (Conduct) Rules, 1964, vide reference 8th read above.

7. In the reference 9th read above, the Hon'ble Court of Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore in its Judgment dated: 11.06.2018 in C.C.No.11/2009 held that:

"Having considered the material available on record, the Hon'ble Court holding that the prosecution has discharged its burden proving that the Accused Officer held the assets which were acquired otherwise than from known sources of income by satisfactorily making out his income as well as expenditure and extent of acquisition of the assets during the check period and the burden is on the Accused Officer to satisfactorily account for the same and the Accused Officer tried to explain the assets in which in his possession, but not succeeded in the said attempt.

From the fore-going reasons, the Hon'ble Court holding that the prosecution has successfully brought home the guilt of the Accused Officer for the offence punishable under Section 13(2) read with 13(1)(e) of the P.C.Act, 1988 beyond all reasonable doubts and as such the Accused Officer is liable to be convicted for the said offence.

A finding has to be recorded that the value of disproportionate assets be forfeited to the Government. The same has to be realized by the sale of assets of the Accused Officer. As per the orders in Crl.M.P.No.327/2008, ad-interim attachment of the properties of the Accused Officer was ordered on 02.05.2008 that was made absolute by the order dated 20.01.2009. The value of disproportionate assets being Rs.49,52,507/- has to be realized by bringing to sale of immovable properties held by the Accused Officer, shown in Annexure-A of the Charge Sheet at Sl.Nos.4, 5, 7 to 10, 12, 13 to 15 and 19 in public auction for realization of the forfeited amount of Rs.49,52,507/- to the extend required, on expiry of appeal time.

In the result, the Accused Officer is found guilty for the offence punishable under Section 13(2) read with 13(1)(e) of the P.C.Act, 1988 and he is convicted under Section 248(2) of Cr.P.C., for the said offence.

Order of Sentence: dated 11.06.2018:

It is not the case where invoke the provisions of Probation of Offenders Act or Section 360 of Cr.P.C., when the Accused Officer is questioned with regard to quantum of sentence to be awarded on him, he represented that he retired from his service on 31.05.2018, he got wife and children and his two daughters are unmarried and he is a diabetic patient and he is the sole bread winner of his entire family and pleaded mercy of the Court.

Having considered the nature and circumstances of the case, representation of the Accused Officer and borne in mind of observation of the Hon'ble Supreme Court rendered in State of Andhra Pradesh Vs. V.Vasudeva Rao reported in 2004 Crl.L.J.620, particularly in Para No.30, gravity of the offence, having regard to

Contd….3.

Section 16 of Prevention of Corruption Act, 1988 relating to fine, the Hon'ble Court passed the following sentence:

Thus, the Accused Officer is sentenced to undergo Rigorous imprisonment for a period of three years and shall pay fine of Rs.5,00,000/- (Rupees Five lakhs only), in default of payment of fine, he shall further undergo Simple Imprisonment for a period of six months for the offence punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988. The remand period of the Accused Officer from 27.10.2007 to 30.10.2007 shall be set off as against the term of imprisonment as per Section 428 of Cr.P.C. The immovable properties set-out in Annexure-A of the charge sheet at Sl.Nos.4, 5, 7 to 10, 12, 13 to 15 and 19 which were attached by the Court as per the orders passed in Crl.M.P.No.327 of 2008 by the ad-interim order dated 02.05.2008 that was made absolute by the Order dated 20.01.2009 in this case shall be directed to be sold in Public Auction by the Government of A.P., to realize the forfeited value of the Disproportionate Assets acquired by the Accused Officer, while discharging his functions as Public Servant to an extent of Rs.49,52,507/- (Rupees Forty nine lakhs fifty two thousand five hundred and seven only) to the extent required after expiry of appeal time. The State Government is also permitted to realize the fine amount, if not paid, by the Accused Officer out of the sale proceeds, so realized therefrom".

8. Government have examined the entire matter carefully and it has been decided to impose a punishment of withholding of pension and gratuity in full permanently against Sri Poludasu Vemana, the then Town Planning Building Overseer, GVMC., Visakhapatnam under Rule 9 of A.P.Revised Pension Rules, 1980, as the said accused officer was found guilty for the offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and convicted by the Orders of Hon'ble Court of Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore dated 11.06.2018 in C.C.No.11/2009.

9. Accordingly, Government hereby order to impose a punishment of withholding of pension and gratuity in full permanently against Sri Poludasu Vemana, the then Town Planning Building Overseer, GVMC., Visakhapatnam under Rule 9 of A.P.Revised Pension Rules, 1980 as the said accused officer was found guilty for the offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and convicted by the Orders of Hon'ble Court of Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore dated 11.06.2018 in C.C.No.11/2009.

10. The Director of Town & Country Planning, AP, Guntur shall take further necessary action in the matter, accordingly.

11. The receipt of G.O., shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.KARIKAL VALAVEN
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri Poludasu Vemana, TPBO., GVMC., Visakhapatnam through the Director of Town & Country Planning, A.P., Guntur.
The Director of Town & Country Planning, AP, Guntur.

Copy to:

The Commissioner, Greater Visakhapatnam Municipal Corporation, Visakhapatnam.
The Principal Accountant General (A&E), A.P., Hyderabad.
The Director General, Anti Corruption Bureau, A.P., Vijayawada.
The Secretary to A.P.Vigilance Commission, 5th Block, AP Secretariat, Velagapudi.
SF/SCs.

//FORWARDED::BY ORDER//

SECTION OFFICER